(1) If 100 (B) Single Bench

IN THE HIGH COURT OF JUDICATURE AT BILASPUR (C.G.)

WRIT PETITION NO.4169 /2004

PETITIONER

Smt. Sunita Sharma,
W/o. Shri Anil Sharma,
Aged about 36 years,
R/o. Sadar Bazar Road,
Balod, District Durg (C.G)

VERSUS

RESPONDENTS

1. State of Chhattisgarh,
Through the Secretary,
Department of Town Planning
& Development,
Mantralaya, D.K.S. Bhawan,
Raipur (C.G.)

2. Director & Prescribed
Authority,
Town Planning & Development,
RDA Building, Shastri Chowk,
Raipur (C.G.)

3. Chief Municipal Officer,
Nagar Palika Parishad,
Balod, District Durg (C.G.)

4. Chief Municipal Officer,
Nagar Palika Parishad,
Jamul, District Durg (C.G.)

5. Chief Municipal Officer,
Nagar Palika Parishad,
Bhatapara, Dist.Raipur(C.G.)

6. Sub-Divisional Officer
(Revenue),Balod,
District Durg (C.G)

7. Tahsildar,
Balod, District Durg (C.G.)

P.R. No. 4257/04 dated 22-11-04 Presented by Shri Reetesh Dubey for Applicant

(K) 22-11-04

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF WRIT IN THE NATURE OF CERTIORARI, MANDAMUS, PROHIBITION AND FOR OTHER SUITABLE WRIT OR WRITS, ORDER OR ORDERS, DIRECTION OR DIRECTIONS

XI-HC-22

(24)

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक WP No. 4169/2004 सन् 200

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

5.11.2004

On a mention being made this matter is taken up for hearing, out of turn.

Petitioner by Smt. Fouzia Mirza, Advocate.

Shri N. K. Agarwal, Deputy Advocate General takes notice on behalf of the Respondents No. 1, 2, 6 and 7.

Shri Sanjay K. Agarwal, Advocate takes notice on behalf of Respondent No.4.

Shri Rajeev Shrivastava, Advocate takes notice on behalf of Respondent No.5.

The petitioner has preferred this petition under Article 226/227 of the Constitution of India questioning the validity of the amended notice dated 22.9.2004 published in newspaper (Annexure P/3) whereby it has been informed to General Public and concerned effected persons that the seat of President/Chairperson of Municipal Council, Balod has been reserved for O.B.C. category.

In para 5.3 of the petition it has been mentioned that by adopting erroneous procedure Balod Municipal Council has been reserved for the O.B.C. category.

I have heard learned counsel for the parties.

Learned counsel for the petitioner argued that as per the provision of sub-rule (2) of the Rule 5 of Chhattisgarh Municipalities (Reservation of Office of Mayor and President) Rules, 1999, reservation for the seats of Backward Classes shall be made by draw of lot as nearly as possible, one fourth of the total offices; leaving the

W.P. No. 4169/2004

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश

Municipality where reservation has been made for S.C. and S.T. In the first instance, the respondents had erroneously reserved the Municipal Council, Jamul for S.C. and Bhatapara for O.B.C. through lots but later on, realizing the mistake that order was changed, therefore, whole exercise reserving seats for O.B.C. category candidate ought to have been done again.

On the other hand, learned counsel for the respondents argued that as far as the reservation of Balod Municipal Council for O.B.C. category is concerned, that was done by draw of lots, therefore, the petitioner could not have any objection.

It is true that as per the provision of sub-rule (2) of Rule 5 of the Rules, 1999 the respondents were required to reserve the post of President/Chair Person of the O.B.C. category by draw of lot, in this case after reservation of three (3) Municipal Council for S.T. and four (4) for S.C., reservation of 7 Municipal Council was made through draw of lots for O.B.C. category and in that draw of lot Bhatapara Municipal Council was also came to be reserved for O.B.C. category. Thereafter, the respondents came to know that based on the incorrect figures of S. C. population Jamul Municipal Council was reserved for S.C. but, when that mistake was detected, the respondents rectified that mistake and passed an order reserving the seat of Municipal Council, Jamul for O.B.C. and Bhatapara for S.C. Therefore, in that process the Municipal Council Balod was not effected in any manner and Municipal Council Balod was reserved by draw of lot; as such, the petitioner cannot have any

(26)

XI-HC—78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

W.P. No. 4169/2004

मामला क्रमांक ..... सन् 200

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अंतिम आदेश
	grievance against the Nonfiction No. F. 4-181-B/18/2004, Raipur dated 30th September, 2004, published in the Chhattisgarh Gazette (extraordinary) dated 1st October, 2004 whereby under the provisions of sub-rule (3) of Rule 9 of the Rules 1999 the list of reserved post of President of Municipal Council, made on 19th August 2004 and amended notice dated 22.9.2004 has been notified. In view of the above, I do not find any substance in this writ petition, which is liable to be dismissed and it is dismissed. Consequently, M(W)P No.4535/2004 and I.A. No.8452/2004 also stand disposed of. **Sd/-** **L.C. Bhadoo** **Judge**	

Thakur